

# SITE PLAN / SPECIAL PERMIT APPLICATION

WESTPORT PLANNING and ZONING COMMISSION

FOR OFFICE USE ONLY

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**SITE PLAN**  
**SPECIAL PERMIT & SITE PLAN**  
**CAM SITE PLAN**

Application # 19-061  
Submission Date: 11-25-19  
Receipt Date: 12-5-19  
Fee: \$ 660.00 CLK PD

1. Property Address (as listed in the Assessor's records) 556 POST ROAD EAST
2. Property ID# (9 Digits - staff will provide) \_\_\_\_\_ Zone: GBD
3. This property is connected to: ☐ Septic or ☒ Sewer
4. Does this project involve demolition of structures 50+ yrs old or more? ☒ No ☐ If Yes = Visit HDC Rm 108, 341-1184.
5. Applicant's Name MANHATTAN MOTORCARS Daytime Tel # 203-256-3247  
c/o JOHN F. FALLON, ESQ.  
Applicant's Full Address 53 SHERMAN ST. FAIRFIELD, CT. Zip Code 06824  
E-Mail: jffallon@snet.net

**NOTE:** Below List Owner's Name(s) as it appears on the **DEED** (No abbreviations) If more space needed submit list.

6. Property Owner's Name 556 POST RD E ASSOCIATES LLC Daytime Tel # \_\_\_\_\_  
Property Owner's Address c/o JOHN F. FALLON, ESQ. Zip Code: \_\_\_\_\_  
E-Mail: jffallon@snet.net
7. Agent's Name (if different): JOHN F. FALLON, ESQ. Daytime Tel # \_\_\_\_\_  
Agent's Address SAME AS ABOVE Zip Code: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

8. Zoning Board of Appeals Case # (if any) \_\_\_\_\_
9. Existing Uses of Property: AUTOMOBILE DEALERSHIP
10. Describe Proposed Project: SEE STATEMENT OF USE (ATTACHED)

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11. For Special Permits, please indicate the Special Permit Use and the specific section of the Zoning Regulations requiring a Special Permit for this use: SEC. 24-2.2.9 (TO BE ADOPTED)
12. This property ☐ Is ☒ Is Not within 500 feet of an adjoining municipality.
13. List your Estimated time needed for your presentation at hearing: 30 MINUTES

The P&Z Director, his/her designee, or the P&Z Commission may require an applicant to pay for hiring one or more outside consultants to assist the P&Z staff and Commission in analyzing, reviewing and reporting on areas requiring technical review.

I hereby certify that the above information is correct and that I have submitted herewith all of the pertinent documentation required by the zoning application.

MANHATTAN MOTORCARS

556 POST RD E ASSOCIATES LLC

**Applicant's Signature** (If different than owner)

**Owner's Signature** (Must be signed <sup>1</sup>)

1. If the applicant is unable to obtain the signature of property owner, a letter of authorization signed by the property owner may be submitted instead, as per §43-3.3

BY: JOHN F. FALLON, ESQ.,  
IT'S ATTORNEY

BY: JOHN F. FALLON, ESQ., IT'S ATTORNEY

## STATEMENT OF USE

Manhattan Motorcars, the new owner of the Volvo dealership located at 556 Post Road East, makes this application for Site Plan and Special Permit approval in order to facilitate renovations and an addition to the existing Volvo dealership located on the premises.

By way of background, in November of 2016 the prior owner of the dealership filed an application for certain text amendments to the Regulations. The purpose of the proposed text amendments were to authorize contemplated improvements to the site and an addition to the building. A public hearing was held with regard to the application and on March 16, 2017 the Commission voted to approve the text amendments. This decision was appealed to the Superior Court pursuant to the provisions of Connecticut General Statutes Section 8-8 and by Memorandum of Decision dated March 13, 2019 the Court sustained the Plaintiffs' appeal finding that the text amendments as approved violated the provisions of Connecticut General Statutes 8-6 and 8-2. More specifically as noted in the decision the Court found that the amendments as proposed violated the holding of the Mackenzie v. Planning and Zoning Commission of the Town of Monroe, 146 Conn.App. 406 (1913) in that the text amendments authorized the Commission to adopt regulations empowering itself to vary the application of the regulations when acting on a special permit request thereby usurping the authority granted to the Zoning Board of Appeals pursuant to the provisions of Connecticut General Statutes 8-6. The Court concluded "...the proposed amendment provides the Commission with the ability to waive or vary certain provisions of the regulations on a case by case basis....if the regulation confers authority on a commission to vary,

modify or alter the requirements or accept other uses, the regulation impermissibly assigns to a zoning commission a power which it cannot validly exercise". The Court also found that the amendment as approved violated the uniformity requirement of Connecticut General Statutes 8-2.

Our client believes that the improvements to the site as originally proposed will provide a substantial benefit to the immediate area by improving the appearance and functioning of the Volvo dealership and eliminating negative impacts on the surrounding residential area. The proposed improvements will have a significant aesthetic benefit with regard to the property and will provide for all automotive service activities to be relocated inside the building. The Commission has previously found the proposal to be consistent with the interests of the dealership, neighborhood and town in general. The current owner is committed to making those improvements as previously contemplated by the prior owner and the Commission.

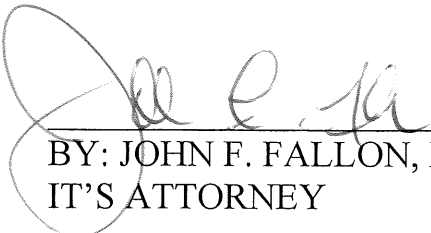
In an effort to address the legal infirmities noted by the Court so that the much needed renovations to the dealership can move forward we are proposing in conjunction with this application for Site Plan and Special Permit approval certain Text Amendments that address the legal concerns raised by the Court. These proposed text amendments address the legal concerns raised by the Court. The essence of the amendments are to qualify automobile dealerships existing within the GBD zone as of the effective date of the amendment to be permitted uses thereby eliminating the constraints otherwise imposed with regard to site improvements due to the pre-existing nonconforming status of these uses. There are only two other automobile dealerships within the zone that would be impacted by this amendment. Qualifying these existing dealerships as permitted uses is consistent with the

long established goals of zoning regulations to eliminate nonconforming uses wherever possible. The site improvements as previously proposed that our client wishes to proceed with are generally compliant with the applicable design requirements of the GBD zone. The text amendments address minor modifications to existing regulations involving coverage and FAR calculations that will render the proposal in conformance with all existing provisions of the zone.

The improvements and enhancements to the dealership as previously approved by the Commission will have a very positive effect aesthetically while providing much needed modifications benefitting customer convenience. The text amendments as proposed address the legal considerations which led to sustaining of the appeal and will ensure that the improvements contemplated will be compliant with applicable provisions of the Zoning Regulations.

For all of the above reasons it is respectfully requested that this application be approved.

**MANHATTAN MOTORCARS**



BY: JOHN F. FALLON, ESQ.,  
IT'S ATTORNEY



TOWN OF WESTPORT  
CONSERVATION DEPARTMENT  
TOWN HALL – 110 MYRTLE AVENUE  
WESTPORT, CT 06880  
(203) 341-1170 FAX (203) 341-1088

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**DISCLAIMER:** "Please note that the Town of Westport maps are to be used as a guide only and not be used as final indication of the presence or exact location of wetland soils. We **strongly recommend field verification of wetlands** for each parcel by a certified soil scientist. The Town of Westport, or its employees or directors, shall not be liable for any damages of any kind that the user may suffer as a result of use or reliance upon information provided."

**Inland Wetland & Watercourse and Waterway Protection Line Ordinance  
Permit Determination**

**Project Address:** 556 POST RD E

**Project Description:** Renovations and additions for dealership

(For Internal Use Only: P&Z Department to send transmittal ☐ Yes ☐ No)

**I. A Conservation Department Permit Not Required for the following reason(s):**

- ☐ No Wetlands or Watercourses on site or within 50' of property line as determined by a **letter from soil scientist**.
- ☒ No wetlands or watercourses present as determined by GIS research/site research and or inspection by technical staff
- ☐ No permit required for this activity. A wetland permit is or may be required for any future work, which may include flagging of the wetland.

**II. A Conservation Department Permit IS REQUIRED for the following reason(s):**

- ☐ Wetlands on property **flagged** by soil scientist.
- ☐ **GIS research/site visit** by technical staff confirmed wetlands or watercourse onsite.
- ☐ **Site Inspection Conducted/GIS research**– No Wetlands on property but within 50 ft of property line.
- ☐ Project eligible for **staff-level** approval. (AA)
- ☐ Project requires **Conservation Commission** review and approval. (Hearing)

**III. WPLO Determinations**

- ☒ Property Outside WPLO jurisdictional boundary. No Conservation Permit Required.
- ☐ Project outside WPLO jurisdictional boundary but on the property. Conservation Department Permit Required. (WPL/E)
- ☐ Within WPLO jurisdictional boundary. Conservation Commission & Flood & Erosion Control Board Review Required. (Hearing)
- ☐ Within WPLO jurisdictional boundary, but no permit required for **THIS** activity. A WPLO permit is or may be required for any future work.

Colin Kelly  
Conservation Technical Staff

11/25/19  
DATE

# Notice Letter

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Date NOVEMBER 25, 2019

## *To whom it may concern:*

Notice is hereby given that MANHATTAN MOTORCARS has filed an application for Site Plan/Special  
(Print Your Full Name) (List Type of Application) Permit approval

for

RENOVATIONS AND AN ADDITION TO AN EXISTING AUTOMOBILE DEALERSHIP  
(Complete Description of Project)

with the Town of Westport

☒ P&Z Commission ☐ Zoning Board of Appeals ☐ Administrative Review Committee

for approval for 556 POST ROAD EAST, WESTPORT, CT.  
(Address of Property)

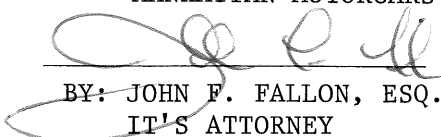
The public hearing for this application will be scheduled at the discretion of the Planning & Zoning Commission. A Legal Notice of the Public Hearing for this application will be published twice prior to the public hearing in a local newspaper.

To view the details concerning this Application please visit the P&Z office in room 203 at Town Hall, Room 203 110 Myrtle Ave, Westport, CT 06880. Office hours: Mon, Wed & Fri 8:30 – 3:00 Tues & Thurs 8:30 – 4:00.

For future reference: If you wish to receive copies of all Town legal notices and meeting agendas by e-mail, please follow these directions:

1. Go to [www.westportct.gov](http://www.westportct.gov).
2. Click on "Sign up for e-mail updates (*located in the top right corner under Online services.*)
3. Scroll down to "Subscribe to Newsletters".
4. Enter your e-mail address.
5. Check box for Land Use Agencies then Click submit.

Thank you,  
MANHATTAN MOTORCARS

  
BY: JOHN F. FALLON, ESQ.,  
IT'S ATTORNEY

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WESTPORT C. & Z. C.

BERMUDEZ WALTER J & PIEDA  
22 SPICER RD  
WESTPORT, CT 06880

MOEN GUNVALD O & JOAN M  
50 PARK LN  
WESTPORT, CT 06880

COHEN ADAM J &  
12 RAYFIELD RD  
WESTPORT, CT 06880

RABA JANE AND SAAB NIDAL  
10 RAYFIELD RD  
WESTPORT, CT 06880

DENG YING ZHI AND  
1 CRESCENT PARK RD  
WESTPORT, CT 06880

SAAB NIDAL ABI AND RABA J  
11 RAYFIELD RD  
WESTPORT, CT 06880

FLYNN MICHAEL & SOPHIA  
18 SPICER RD  
WESTPORT, CT 06880

SHUKIE HOLDINGS LLC & J&  
10 OLD PURDY STATION RD  
NEWTOWN, CT 06470

FRENCH POST ROAD EAST DE  
707 SUMMER ST  
STAMFORD, CT 06901

SOUVLIS ELLI  
PO BOX 1022  
SPRINGFIELD, VA 22151

HYDE JOAN M  
27 ELLERY LN  
WESTPORT, CT 06880

STANDEINER JOHN  
5 CRESCENT RD  
WESTPORT, CT 06880

INFINITY WESTPORT MANAGER  
1407 BROADWAY 30TH FL  
NEW YORK, NY 10018

STAR RESIDENTIAL SERVICES  
PO BOX 470  
NORWALK, CT 06852

KARACHUK DAVID J  
9 RAYFIELD RD  
WESTPORT, CT 06880

TIROLA VINCENT S  
18 PUNCH BOWL DR  
WESTPORT, CT 06880

MIRO VERMELLE A  
31 SPICER RD  
WESTPORT, CT 06880

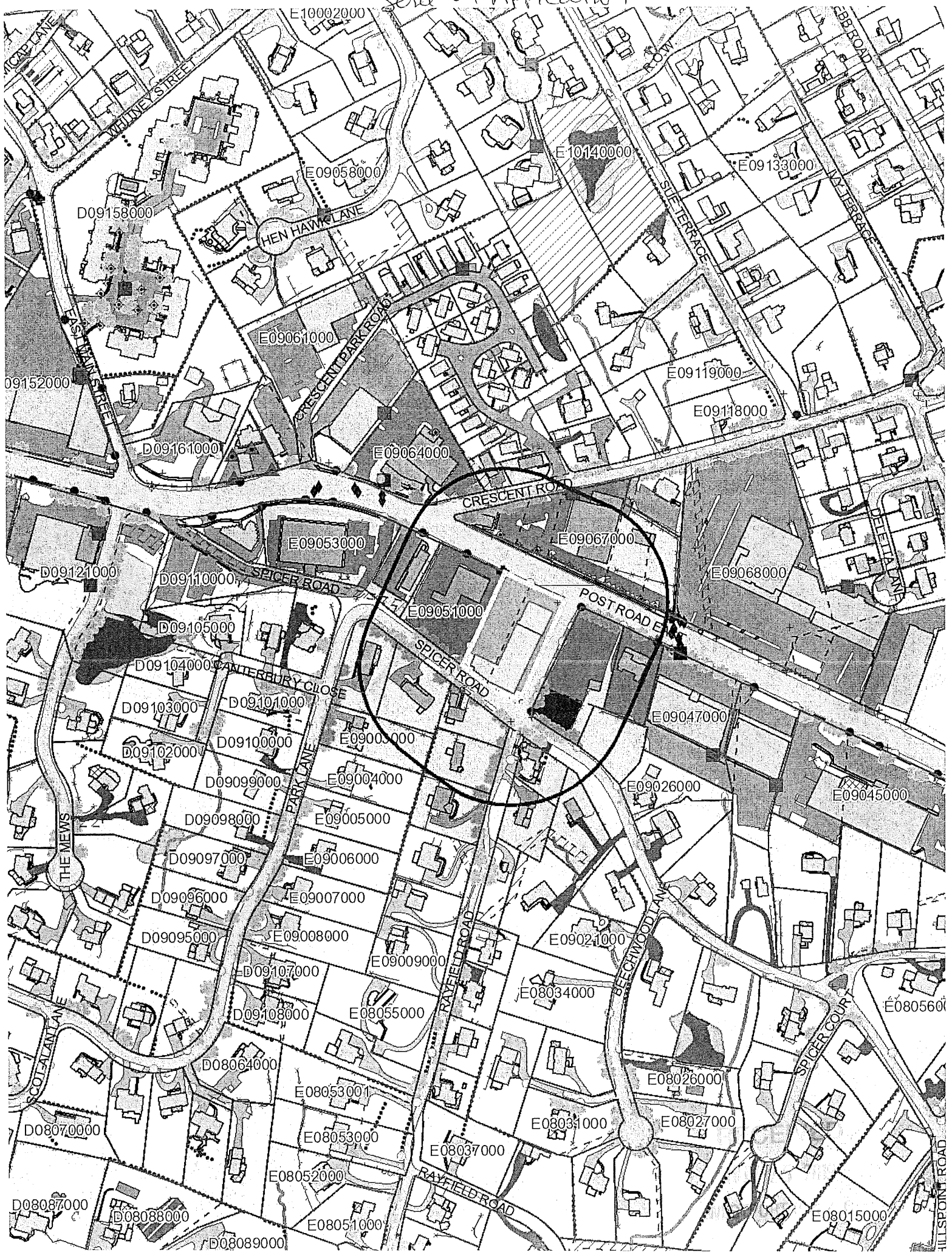
WESTPORT TOWN OF  
110 MYRTLE AVE Rm 310  
WESTPORT, CT 06880

MIRO VERMELLE A TRUSTEE  
31 SPICER RD  
WESTPORT, CT 06880

PLANNING & ZONING DEPT.  
110 Myrtle Ave - Room 203  
Westport, CT 06880

Serial w/  
Application

Send w/ Application





[illegible]

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd	Description	Element	Cd	Description
Style:	63	Auto Dealer			
Model	96	Commercial			
Grade	03	Average			
Stories:	1				
Occupancy	1.00				
Exterior Wall 1	17	Stucco/Masonry			
Exterior Wall 2	15	Concr/CinderBk			
Roof Structure	01	Flat			
Roof Cover	04	T&G/Rubber			
Interior Wall 1	05	Drywall			
Interior Wall 2					
Interior Floor 1	03	Concr-Finished			
Interior Floor 2	11	Ceram Clay Til			
Heating Fuel	03	Gas			
Heating Type	04	Forced Air			
AC Type	06	Partial			
Bldg Use	332	Auto Repair			
Income Adj					
Heat/AC	01	Heat/AC Pkgs			
Frame Type	03	Masonry			
Baths/Plumbing	02	Average			
Ceiling/Walls	03	Sus-Ceil/Mn WL			
Rooms/Prtns	02	Average			
Wall Height	14.00				
% Conn Wall					
1st Floor Use:	332				
			RCN		
			2,096,817		
			Year Built		
			Effective Year Built		
			Depreciation Code		
			Remodel Rating		
			Year Remodeled		
			Depreciation %		
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